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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	79119647
Applicant	August Storck KG
Applied for Mark	2GOOD
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Submission	Appeal Brief
Attachments	Applicant's Brief on Appeal - 2good - SN79119647.pdf(5102208 bytes )
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Date	10/24/2014

## BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: August Storck KG

Serial No.: 79/119,647

Filing Date: August 22, 2012 Int. Reg. No.: 1133636

Int. Reg. Date: August 22, 2012

Mark: **2good** 

## **APPLICANT'S BRIEF ON APPEAL**

## **TABLE OF CASES**

<u>Drackett Company v. H. Kohnstamm &amp; Co.</u> , 407 F.2d 1399 (1969)
General Mills, Inc. v. Kellogg Co., 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987)
General Mills, Inc. v. Kellogg Co., 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987)
<u>In re 1776,</u> 223 U.S.P.Q. at 187
<u>In re AMVESCAP PLC</u> , 204 WL 363901 (TTAB 2004)
<u>In re Bed &amp; Breakfast Registry,</u> 229 U.S.P.Q. 818, 819 (Fed. Cir. 1986)
<u>In re Hartz Hotel Services, Inc.,</u> 102 U.S.P.Q. 2d 1150 (TTAB 2012)
<u>In re Hunke &amp; Jocheim</u> , 185 U.S.P.Q. 188, 189 (TTAB 1975)
In re Pacific Coast Feather Company, 202 WL 92599 (TTAB 2002)
<u>In re RENMING CAO</u> , 2013 WL 5407271 (TTAB 2013)
In re Summit Laboratories, Inc., 167 U.S.P.Q 480 (TTAB 1970)
Interstate Brands Corp. v. Celestial Seasonings, Inc., 576 F.2d 926, 928 (CCPA 1978)
Kellogg Co. v. Pack'em Enterprises, 21 USPQ2d 1142, 951 F.2d 300 (Fed. Cir. 1991)
King Candy Co. v. Eunice King's Kitchen, Inc., 182 U.S.P.Q. 108 (CCPA 1974)
<u>La Maur, Inc. v Revlon, Inc.,</u> 245 F. Supp. 839, 146 U.S.P.Q. 654 (D. Minn. 1965)
Lucky Stores, Inc. v. Red And White Foundation, 145 U.S.P.Q. 47 (TTAB 1965)
One Industries, LLC v. Jim O'Neal Distributing, Inc., 578 F.3d 1154 (9th Cir. 2009)
Philip Morris, Inc. v. Midwest Tobacco, Inc., 9 U.S.P.Q.2d 1210 (E.D. Va. 1988)
<u>Taco Time Int'l, Inc. v. Taco Town, Inc.,</u> 217 U.S.P.Q. 268 (TTAB 1982)

Pursuant to a Notice of Appeal filed on July 31, 2014, Applicant has appealed the final refusal to register under Section 2(d).

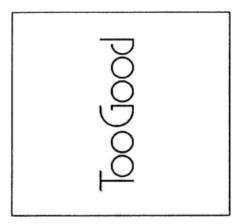
## **ISSUE**

Whether the TM Examiner erred in refusing registration of applicant's mark 2good under Section 2(d) on the ground that applicant's mark so resembles the cited mark TOOGOOD & Design as shown in Reg. No. 4,235,722 (the '722 Reg) as to be likely to cause confusion, mistake or deception as to the source of the goods of applicant and registrant.

Applicant's Mark:



Cited Mark:



Applicant's goods on appeal: "Chocolate candy, namely, chocolate candy bars" in Class 30.

Applicant's goods as previously amended: "Confectionery, made of sugar; chocolate; chocolate products, namely, chocolates, chocolate candy, chocolate pralines, chocolate tables; pastries, ice-cream, preparations for making the aforementioned confectionery made of sugar, pastries, and ice-cream, namely cocoa-powder, cake mixes, cookie mixes, pastry cream, mixes for making ice-cream" in Class 30.

Applicant's original goods: "Confectionery, chocolate, chocolate products, pastries, ice-cream, preparations for making the aforementioned products" in Class 30.

Cited registration's goods:

"Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats; edible fats; butter; charcuterie; salted meats; crustaceans, not live; canned meat or fish; cheese; milk based beverages" in Class 29

"Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and cereal preparations, namely, cereal based snack foods; bread, pastry and confectionery made of sugar; edible ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces; spices; ice for refreshment; sandwiches, pizzas; pancakes; cookies; cakes; rusks; chocolate; cocoa, coffee, chocolate or tea based beverages" in Class 30.

## **SUMMARY OF THE RECORD**

Application Serial No. 79/119,647 for the mark 2good is a U.S. Extension of International Registration No. 1133636.

In the first Office Action, dated December 19, 2012, the TM Examiner refused registration under Section 2(d) citing the '722 Reg for the mark TOOGOOD & Design, and identified the most relevant factors as similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods.

Applicant filed a response on June 18, 2013, requesting that the 2(d) refusal be withdrawn based on the differences in the marks.

In the second Office Action, dated July 11, 2013, the Examiner maintained the Section 2(d) refusal to register based on the '722 Reg for the mark TOOGOOD & Design. The Examiner also refused register under Section 2(d) based on Reg. No. 4,313,703 (the '703 Reg) for the mark 2GOOD2B for goods that include bakery goods and bakery desserts.

In a Response filed January 10, 2014, the applicant amended the list of goods to limit the goods to "chocolate candy, namely, chocolate candy bars". The applicant also requested that the Section 2(d) refusals be withdrawn as to both the '722 Reg and the '703 Reg.

In an Office Action dated February 5, 2014, the Examiner withdrew the 2(d) refusal with respect to the '703 Reg. The Examiner maintained and made final the 2(d) refusal with respect to '722 Reg.

Applicant filed a Request for Reconsideration on July 31, 2014, requesting that the Examiner withdraw the Section 2(d) refusal with respect to '722 Reg.

Applicant filed a Notice of Appeal on July 31, 2014.

A Request for Reconsideration Denied issued on August 27, 2014. The Examiner denied the Motion for Reconsideration on the grounds that "Here, the goods are highly related and/or overlapping and the marks are phonetic equivalents," and that the differences in the appearance and connotation of the marks do not outweigh these factors.

## **SUMMARY OF ARGUMENT**

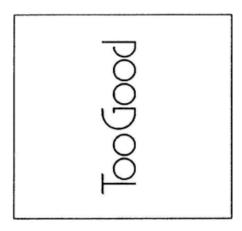
The 2(d) refusal to register based on the '722 Reg should be withdrawn for the following reasons:

- 1. The marks are sufficiently dissimilar in appearance, connotation and commercial impression that there is no likelihood of confusion. The only common element to both marks is the term "good" which is merely descriptive.
- 2. Sound/phonetic equivalence is not a relevant factor based on the purchasing process.
- 3. The goods are different, but even if related, this factor is outweighed by the dissimilarity of the marks which standing alone, can be dispositive of finding no likelihood of confusion.
  - 4. The '703 Reg (2GOOD2B) was not cited against the '722 Reg (TOOGOOD).
- 5. The cited mark is entitled to only a narrow scope of protection because it is descriptive, suggestive, laudatory and commonly used and registered by many others and, therefore, is weak.

#### **ARGUMENT**

1. The marks are sufficiently dissimilar in appearance, connotation, and commercial impression that there is no likelihood of confusion.

It is respectfully submitted that the examining attorney has erred in finding these two marks to be sufficiently similar to create a likelihood of confusion based primarily on similarity in sound. The drawings of the two marks appear below. The cited mark:



## Applicant's mark:

# 2good

## (a) Appearance

In terms of visual differences, the differences are many and striking, and the combination of differences is so great as to be a dominant and controlling factor in finding that the marks are not confusingly similar even if the goods are considered to be related. "...[T]here is no reason why a single du Pont factor, such as in this case the dissimilarity of the marks in their entireties, cannot be dispositive of the issue of likelihood of confusion." In re RENMING CAO, 2013 WL 5407271 (TTAB 2013). First, the cited mark has a highly unusual bottom-to-top vertical presentation of its textual matter. This is quite dissimilar from the horizontal presentation of the text in applicant's mark. Second, the marks are visually dissimilar insofar as the textual element in the cited mark is presented in a completely different font from applicant's mark. The different fonts create different visual impressions. The cited mark has a thin line modern look and applicant's mark has a more traditional look. Moreover, the cited mark has an upper case letter "G" and applicant's mark has a lowercase "g" with a stylized font lower portion. Where, as here, the marks are depicted in the drawings in a stylized form, these visual differences must be considered in analyzing similarity of the marks, and are a basis for finding that the marks are not confusingly similar. Third, the marks are visually distinguished by the number "2" used in applicant's mark, as contrasted to the word "Too" presented in upper and lower case within the cited mark. Thus, the initial textual element encountered by the prospective purchaser is quite dissimilar in visual impact when the purchaser views the respective marks. Fourth, the marks also are visually distinct by reason of the square design element incorporated in the cited mark. There is no corresponding or similar design element in applicant's mark. The multiple and significant visual differences are sufficient to support a finding that the marks are not confusing similar. The Examiner erred in not giving credit to the design features in the cited mark as a point of differentiation between the marks. The board "must consider the marks as presented and assume that this is the way in which they would appear on the goods". 171 USPQ 807 (TTAB 1971) (reversing 2(d) refusal to register). When the marks are considered as presented, it is obvious that the two marks differ significantly in appearance so as not to be likely to cause confusion.

Furthermore, the word "Good" is descriptive, especially as used in the cited mark. Thus, the only similarity between the cited mark and applicant's mark is the descriptive element "good". The respective distinctive elements of each mark are not similar. Purchasers are not likely to rely on the descriptive term "good" in remembering the respective marks. The number "2" in applicant's mark differs significantly in appearance and meaning from the word "too" in the cited mark. Obviously, the number "2" denotes a number while "too" most commonly denotes "also". The distinctive elements in each of the marks will more likely serve as a source of identity and differentiation. In re AMVESCAP PLC, 204 WL 363901 (TTAB 2004).

#### (b) Connotation

Applicant also respectfully submits that the examining attorney has erred in finding the marks similar in their entirety as to connotation. The different initial elements of each mark have different meanings which creates a different connotation. The textual element of applicant's mark starts with the number "2" and suggests something to do with the number 2, e.g., an amount, 2 things, a pair, or possibly to buy, try or eat 2 in relation to candy bars. There are multiple connotations. In contrast, the textual element of the registered mark starts with the word "Too" which has nothing to do with numbers and has a specific dictionary meaning of:

```
Too:

1
: BESIDES, ALSO <sell the house and furniture too>
2
a: to an excessive degree: EXCESSIVELY <too large a house for us>
b: to such a degree as to be regrettable <this time he has gone too far>
c: VERY <didn't seem too interested>
3
: SO 2d <"I didn't do it." "You did too.">
"Too." Merriam-Webster.com. Merriam-Webster, n.d. Web. 22 July 2014. <a href="http://www.merriam-webster.com/dictionary/too>"http://www.merriam-webster.com/dictionary/too>"."
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The term "Too" is immediately followed in the registered mark by the term "Good," which has the ordinary dictionary meaning of:

#### Good:

1

a(1): of a favorable character or tendency < good news> (2): BOUNTIFUL, FERTILE < good land> (3): HANDSOME, ATTRACTIVE < good looks>

b(1): SUITABLE, FIT <good to eat>(2): free from injury or disease <one good arm>(3): not depreciated <bad money drives out good>(4): commercially sound <a good risk>(5): that can be relied on <good for another year><good for a hundred dollars><always good for a laugh>(6): PROFITABLE, ADVANTAGEOUS <made a very good deal>

c(1): AGREEABLE, PLEASANT < had a good time> (2): SALUTARY, WHOLESOME < good for a cold> (3): AMUSING, CLEVER < a good joke>

d(1): of a noticeably large size or quantity: CONSIDERABLE <won by a good margin> <a good bit of the time> (2): FULL <waited a good hour> (3) —used as an intensive <a good many of us>

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e(1): WELL-FOUNDED, COGENT < good reasons>(2): TRUE < holds good for society at large>(3): deserving of respect: HONORABLE < in good standing>(4): legally valid or effectual < good title>
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f(1): ADEQUATE, SATISFACTORY < good care> —often used in faint praise <his serve is only good — Frank Deford> (2): conforming to a standard < good English> (3): CHOICE, DISCRIMINATING < good taste> (4): containing less fat and being less tender than higher grades —used of meat and especially of beef

2

```
a (1): VIRTUOUS, RIGHT, COMMENDABLE <a good person> <good conduct> (2): KIND, BENEVOLENT <good intentions>
```

b: UPPER-CLASS <a good family>

c: COMPETENT, SKILLFUL <a good doctor>

d(1): LOYAL <a good party man> <a good Catholic> (2): CLOSE <a good friend>

e: free from infirmity or sorrow <I feel good>

"Good." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 23 July 2014. <a href="http://www.merriam-webster.com/dictionary/good">http://www.merriam-webster.com/dictionary/good</a>.

Thus, the textual element of the registered mark conveys the meaning of "also good," "excessively good," "very good," or "so good", and creates a very different connotation than the number 2. The initial component of each of these marks, therefore, is quite different and distinct in terms of meaning and connotation.

## (c) Commercial Impression

It is further submitted that the examining attorney has erred in finding that the respective marks are so similar in their entirety as to commercial impression as to yield a likelihood of confusion. The unusual and distinctive bottom-to-top vertical presentation of all of the textual elements of the registered mark, within its square design, creates a different commercial impression from that of applicant's mark having a horizontal presentation; the textual elements run in different directions, and thus distinguish the commercial impression made by the respective marks. The textual elements are presented in different fonts. The textual element "good" of applicant's mark is presented entirely in lowercase lettering in a font quite dissimilar from the upper and lower case font presentation of the registered mark. When properly viewed in their entireties, the respective marks create very different commercial impressions.

## 2. Sound/phonetic equivalence should not be given any weight.

Sound appears to be the dominant factor behind the 2(d) refusal. In each Office Action, the Examiner emphasized that the marks "are essentially phonetic equivalents and thus sound similar". In denying the request for reconsideration, the Examiner found applicant's arguments unpersuasive "because the marks are essentially phonetic equivalents and thus sound similar". The Examiner erroneously assigned too much weight to the sound factor because it ignores market realities. It is submitted that the goods listed in the '722 Reg and applicant's goods are the

type of goods which are predominantly purchased by selecting the goods from shelves in retail stores or online. Under these purchasing circumstances, pronunciation of the marks is not likely to be involved in the purchasing process and has little practical relevance. The examiner finds that the "literal portions of the marks are essentially phonetic equivalents and thus sound similar." However, when goods are seldom purchased by vocal selection, the sound factor should not be as heavily weighed as the visual factor. *See* La Maur, Inc. v Revlon, Inc., 245 F. Supp. 839, 146 U.S.P.Q. 654 (D. Minn. 1965) (phonetic similarity not so important where goods sold in self-service store rather than by verbal request to sales clerk).

The differences in appearance, connotation and commercial impression far outweigh the similarity in sound, especially when considering the non-verbal purchasing process.

## 3. The Goods are Different.

In view of applicant's amendment to the goods limiting the goods to "chocolate candy, namely, chocolate candy bars", the applicant's goods and the goods in the '722 Reg are sufficiently different and confusion is not likely in view of the significant visual differences in the marks. The goods in the '722 Reg do not include candy bars, and the goods in the '722 Reg would be sold in different sections of stores than applicant's candy bars.

Even if the products are considered the same or related, however, confusion is not likely since the marks are dissimilar. <u>In re Pacific Coast Feather Company</u>, 202 WL 92599 (TTAB 2002) (Reversed 2(d) refusal where the mark TRUE WEAVE for bedsheets held not to be similar to the cited mark TRUWEAR also for bedsheets); <u>Kellogg Co. v. Pack'em Enterprises</u>, 21 USPQ2d 1142, 951 F.2d 300 (Fed. Cir. 1991). "While applicant's identified goods and those in the cited registration are identical in part and otherwise related, the differences between the marks in overall appearance, sound, meaning and commercial impression are sufficient to avoid the likelihood of confusion. As recognized in *Kellogg Co. v. Pack'em Enterprises*, 951 F.2d 330, 21 USPQ2d 1142, 1145 (Fed. Cir. 1991), there is no reason why a single *du Pont* factor, such as in this case the dissimilarity of the marks in their entireties, cannot be dispositive of the issue of likelihood of confusion." <u>In re RENMING CAO</u>, 2013 WL 5407271 (TTAB 2013).

# 4. 2GOOD2B (the '703 Reg) Was Not Cited Against TOOGOOD & Design (the '722 Reg).

The filing date of the '703 Reg for the mark 2GOOD2B is June 3, 2011. The filing date for the '722 Reg for the mark TOOGOOD and Design is August 9, 2011. A different Examiner, when examining the '722 Reg, did not cite the '703 Reg as a bar to the '722 Reg. The '703 Reg covers "bakery goods and bakery desserts" and the goods in the '722 Reg include "bread and pastry". The goods in the '703 Reg and the '722 Reg are closer than the goods in the instant application and the '722 Reg. It can reasonably be assumed that the Examiner prosecuting the '722 Reg did not consider the marks 2GOOD2B and TOOGOOD and Design to be similar even as applied to substantially identical goods.

While, as noted by the Examiner, prior decisions of examining attorneys have "little" evidentiary value, the above situation does have <u>some</u> evidentiary value, and is evidence worthy of considerable weight that TOOGOOD and 2good are not similar. This is not a situation where

two registrations coexist at different remote points in time. The applications for the '703 Reg and the '722 Reg were filed in 2011 and both registered in 2012 and 2013, respectively. Thus, the coexistence of the '703 Reg and the '722 Reg for substantially identical goods is a relevant factor to consider and supports a conclusion that the '722 Reg should not be cited as a basis for refusal.

## 5. The Cited Mark is Entitled to Only a Narrow Scope of Protection.

The scope of protection given marks is on a continuum from broad to narrow protection depending on the nature of the mark. Where a mark is weak, it should be accorded only a narrow scope of protection, not a broad or normal scope. <u>Drackett Company v. H. Kohnstamm & Co.</u>, 407 F.2d 1399 (1969). The cited mark is weak for two reasons. First, it is suggestive and laudatory. Second, the cited mark is weak because of the common use and registration of the terms in the cited mark.

## (a) The cited mark is weak because it is highly suggestive and laudatory.

The ordinary dictionary meanings of the terms "Too" and "Good" in the registered mark are set forth above in Section 1(b). As applied to the relevant goods, the textual elements of the registered mark are self-laudatory and, thus, highly suggestive. In fact, the word "good" in the cited mark is highly suggestive, if not descriptive, in relation to food products, and in which applicant can have no exclusive right. Therefore, the cited mark is highly suggestive and weak, and entitled only to a narrow scope of protection. "The scope of protection afforded such highly suggestive marks is necessarily narrow...". <u>Drackett Company v. H. Kohnstamm & Co.</u>, 407 F.2d 1399 (CCPA 1969) (Two six letter marks each containing the word "dust" for products for disposing of dust do not so resemble each other as to be likely to cause confusion). When considering the factors in assessing likelihood of confusion, the relative strength or weakness of a mark is an important factor. <u>Philip Morris, Inc. v. Midwest Tobacco, Inc.</u>, 9 U.S.P.Q.2d 1210 (E.D. Va. 1988).

In the December 19, 2012 Office Action, the Examiner stated that "The marks are also similar in meaning because both suggest that the goods are extremely good." Because the word "TOO" precedes the word "GOOD" in the cited mark, the '722 mark is highly suggestive and laudatory and, as such, is a weak mark. Rather than being a basis for finding the marks similar, this is a basis for finding that the marks are not similar. "Merely because the marks of the parties are equally suggestive of a desirable characteristic of their products is felt insufficient to support a finding of likelihood of confusion or mistake." In re Summit Laboratories, Inc., 167 U.S.P.Q 480 (TTAB 1970).

Moreover, unlike a situation involving an arbitrary or fanciful mark, the addition of other matter to a laudatory, highly suggestive word may be enough to distinguish it from another mark. In re Hartz Hotel Services, Inc., 102 U.S.P.Q. 2d 1150 (TTAB 2012); 2012 WL 1193704 at p. 4. In re Hunke & Jocheim, 185 U.S.P.Q. 188, 189 (TTAB 1975). Here, where the number "2" is the first element in applicant's mark, and the cited mark TOOGOOD is displayed vertically in a rectangle, these differences are sufficient to support a conclusion that the marks are not similar and that confusion is not likely. One has to remember that the only equivalent element is the descriptive term "good" which, under the circumstances, is not likely to be considered as a source of identity. In re Hartz (TTAB 2012); 2012 WL 1193704 at p. 5.

In a situation like this, consumers are able to distinguish marks based on small differences between the marks. <u>In re Hartz</u> (TTAB 2012) WL at p. 5. (GRAND HOTEL NYC registrable over GRAND HOTEL).

The use of the number "2" in applicant's mark and all of the other differences pointed out above are sufficient to put applicant's mark outside the narrow scope of protection to be given the weak cited mark.

## (b) The cited mark is weak because of the common use and registration of "TOO GOOD" for the same or related goods.

Offered herewith as evidence are a large number of TOOGOOD marks in use on the same or related goods (Attached hereto are the most relevant pages of Exhibit A and Exhibit B to the Request For Reconsideration). Exhibit A consists of printouts of web pages showing that many different entities use "Too Good" as trademarks, trade names, brand names, or titles of food or food related items, including, but not limited to: "Richards TOO GOOD BBQ Sauce", "TOO GOOD BAKED CHICKEN", "TOO GOOD GOURMET", "TOO GOOD TO BE GLUTEN FREE", "WHEY TOO GOOD BROWNIE MIX", and others. Exhibit B consists of TESS database records showing that many different entities have applied for or registered marks that contain the textual element "Too Good" as applied to foods or food related goods or services. This is persuasive evidence that when a purchaser sees "TOO GOOD" they are unlikely to associate it with a single source.

Where, as here, the cited mark is weak, consumer confusion is unlikely because the mark's components are so widely used that the public can easily distinguish slight differences in the marks, even if the goods are related. General Mills, Inc. v. Kellogg Co., 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987). When the only similarity between the marks is a widely used word, consumers will look to the remainder of the marks as the distinguishing features. Taco Time Int'l, Inc. v. Taco Town, Inc., 217 U.S.P.Q. 268 (TTAB 1982) (TACO TOWN held not confusingly similar to TACO TIME for identical goods). In Lucky Stores, Inc. v. Red And White Foundation, 145 U.S.P.Q. 47 (TTAB 1965), the Board found there was no likelihood of confusion between the mark LUCKY for grocery store services and the mark LUCKY DOLLAR for identical services. Due to the weak nature of the mark "Lucky", use of the word "Dollar" along with "Lucky", was sufficient to alleviate confusion. See General Mills, Inc. v. Kellogg Co., 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987) (no likelihood of confusion between the marks APPLE RAISIN CRISP and OATMEAL RAISIN CRISP, both for breakfast cereals); Interstate Brands Corp. v. Celestial Seasonings, Inc., 576 F.2d 926, 928 (CCPA 1978) (RED ZINGERS held distinguishable from ZINGERS); King Candy Co. v. Eunice King's Kitchen, Inc., 182 U.S.P.Q. 108 (CCPA 1974) (KING'S used on candy distinguishable from MISS KING'S used on cakes). "[O]ther words or designs play a significant role in creating the commercial impression of each mark." In re 1776, 223 U.S.P.Q. at 187. In fact, where marks contain common terms, purchasers are more likely to rely on the non-common portion of each mark. In re Bed & Breakfast Registry, 229 U.S.P.Q. 818, 819 (Fed. Cir. 1986). Here, purchasers are not likely to rely on the laudatory and common term "good" in remembering the respective marks. The number "2" in applicant's mark differs significantly in appearance and meaning from the word "too" in the cited mark. Obviously, the number "2" denotes a number while "too" most commonly denotes "also". Based on this additional evidence, the cited mark should be afforded only a narrow scope of protection and applicant's mark falls outside of that scope. "When similar marks permeate the marketplace, the strength of the mark decreases. In a crowded field of similar marks, each member of the crowd is relatively weak in its ability to prevent use by others in the crowd." One Industries, LLC v. Jim O'Neal Distributing, Inc., 578 F.3d 1154 (9th Cir. 2009).

## 6. Balancing the Factors.

The differences in appearance, connotation and commercial impression and the weakness of the cited mark, and the other factors discussed above tip the scales in favor of a finding that the marks are not similar and that there is no likelihood of confusion, even if the goods are related.

## **CONCLUSION**

For the foregoing reasons, the refusal to register should be reversed and this application approved for publication.

Dated: October 24, 2014 Respectfully Submitted

/Joseph F. Schmidt/

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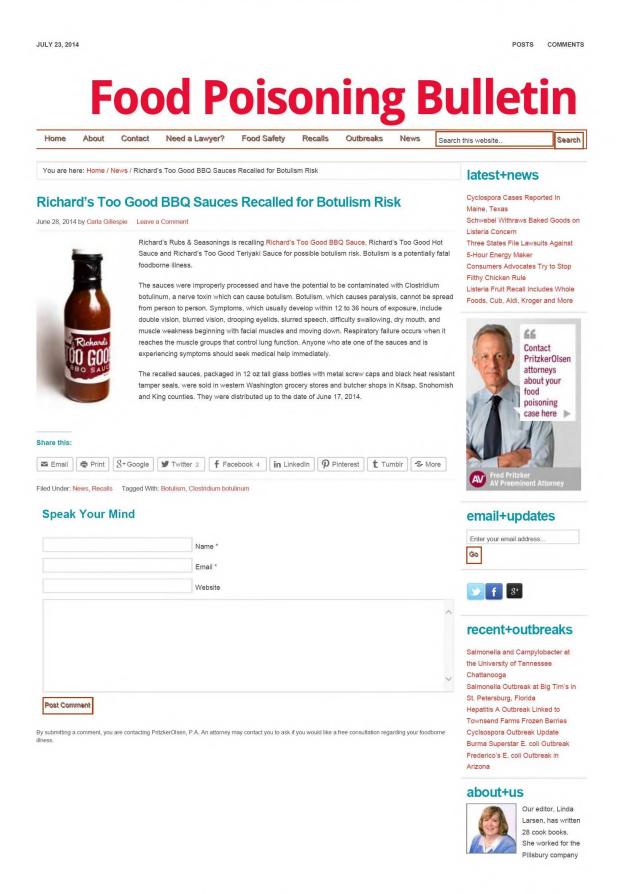
Telephone: 312-836-4178

Attorney for Applicant August Storck KG

1308158.2

Mark: 2good Serial No. 79/119,647

# EXHIBIT A WEB PAGES



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## Soul Food Cookbook, Soul Food Recipes

Soul Food is a tasteful delight for all to enjoy. The Soul Food Cookbook is a collective cookbook of Recipes, for all to enjoy culinary delights born from the Black/African American, Jamaican and Caribbean cultures. Many are easy to use.



#### Too Good Baked Chicken

Posted on December 30, 2013 by soul-food-recipes

#### Ingredients:

Beverages

Starch

chicken pieces (white, dark, or mixed)

1 can of cream of mushroom soup

Vegetables

1 package of onion- mushroom dry soup mix (Lipton's soup mix has better taste or just onion mix)

1 & 1/2 cups of milk (whole milk gives the best taste)

#### Utensils Needed:

baking pan (deep enough to hold a whole chicken) mixing bowl

#### Instructions:

Preheat the oven to 350 F.

Spread the onion soup mix over the bottom of the pan.

Make sure the mix is spread evenly.

Wash and then place the chicken in the pan, on top of the onion mix.

In the mixing bowl, mix the cream of mushroom soup and the milk. Mix it well so there are no lumps.

Pour the mixture over the chicken and place it in the

Cook at 350 degrees F for 30 minutes and then turn the chicken over and cook for another 30 minutes, or until the chicken is done and the gravy is brown.

**Note:** Serve it hot. It tastes very good with rice or mashed potatoes. You can also substitute with pork steaks or beef steaks. Just reduce the cooking time. In any case, it's DA BOMB!

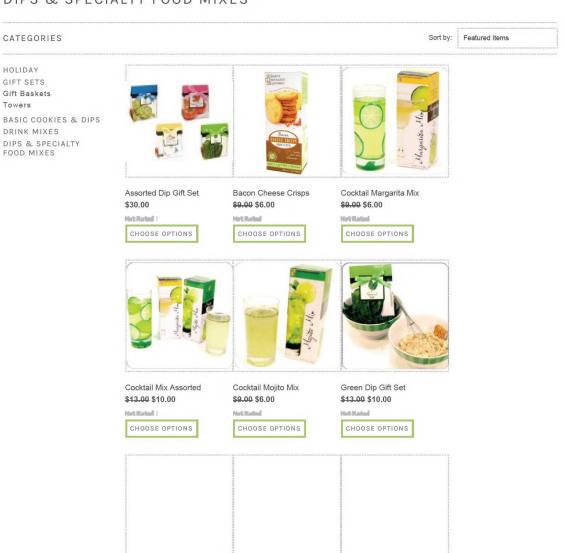
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#### DIPS & SPECIALTY FOOD MIXES





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Mini Pastryless Cheese & Onion Quiche Naturally gluten free - a rich filling made with free range egg and cheddar cheese



Lemon Tart
Gluten free
shortcrust pastry
with a rich and tangy
lemon filling.

Chicken & White Wine Pie

Succulent sous vide chicken in a creamy

white wine sauce

topped with sauté

leeks in a gluten free

pie case.

Pepperoni Pizza Gluten Free pizza base topped with a

rich tomato sauce.

Pepperoni and a



Quiche Lorraine
Gluten free
shortcrust pastry
filled with British
maple cured smoked
bacon, extra mature
cheddar cheese &
emmental cheese in a
free range egg



Α

ve





Blueberry & Vanilla Cheesecake
Poached blueberry
complete with a rich,
creamy vanilla
cheesecake filling,
finished with crunchy
gluten free biscuit



Sundried Tomato & Mozzarella Pizza Gluten Free pizza base topped with a rich tomato sauce & a blend of cheeses and tomatoes.



fii

To Po top & ser



Cheese & Onion Quiche Gluten free shortcrust pastry with onions, extra mature cheddar cheese & emmental cheese in a free



Mini Pastryless Cheese & Bacon Quiche Naturally gluten free - a rich filling made with free range egg and cheddar cheese, with maple cured smoked bacon.



Vegetable Pie A cheesy vegetable sauce topped with butternut squash, spinach and char grilled red peppers.



Beef & Mushroom Pie Rich slow-cooked beef topped with a gluten-free pastry lid.



Chorizo, Mixed Bean and Cheese Topped Frittata Potato confit layer topped with mixed beans coated in a tangy tomato sauce infused with herbs. Topped with Chorizo and Cheddar Cheese.

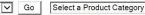
Search







Select a Brand







#### **Popular** Categories

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- MHP
- Muscle Meds
- Muscle Pharm
- MuscleTech
- NOW
- Optimum Nutrition
- Ultimate Nutrition
- Universal Nutrition
- USP Labs

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#### NOW

## Whey Too Good Brownie Mix

- Made with Organic Cocoa and Golden Flax
- Contains 88% Organic ingredients
- Wheat-free and Gluten-free.

Baking instructions to make one pan of brownies (yields 9 brownies): Preheat oven to 350 degrees. Empty entire contents (approx. 16 oz. dry mix) into a mixing bowl. Add 3 eggs, 2/3 cup of hot water, and 2/3

List

Price

Our

Price

cup NOW MCT Oil (or other oil of your choice, i.e. NOW Macadamia Nut Oil or your favorite vegetable oil). Mix until well blended with a wire whisk. Pour batter into a lightly greased standard brownie pan (8x8 or 9x9) and bake for 30-35 minutes. Remove from heat when a toothpick comes out clean in the center. Let cool for a minimum of 30 minutes before cutting or covering. Tastes best when completely

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#### Hot **Products**



low carbs. sweetened only with whey isolate with Available in several popular flavors.



multivitamin. Certified organic, non-GMO, free of synthetic binders and fillers. Also available in Men's



contains 26g of high quality protein plus BCAAs to support peak performance.



antioxidant that supports natural anti-inflammatory response and healthy uric acid levels.



form of minerals that support normal heart muscle function.



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## **Cookies from Too Good Gourmet Cater to Luxury Tastes**

Date: 11/29/12 | Source: Specialty Food News Categories: Industry Operations; Suppliers | Tags: Baked Goods; California; Cookie; Dessert, Profile

🖪 🛅 🖹 💂 🖼 🖨

Too Good Gournet is a multimillion-dollar business with its own 50,000-square-foot bakery and factory that employs up to 150 people during its high season and produces nine tons of cookies every day. In 2004, the owners took out a loan for \$1 million, moved into its current San Lorenzo, CA, facility and bought industrial equipment to do their own baking. Adjusting to the economic downturn with a second brand, Simply Indulgent Gourmet, the company hasn't skipped a beat, reports The San Francisco Chronicle. Full Story

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More Articles in Industry Operations



antioxidant properties such as pomegranate and blueberry are hot



Nashville Restaurant to Open Cafe-Bakery



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(https://premiernaturalhealth.com)



1-416-800-0673

1-877-419-9537

Whey Too Good – An All Natural Whey Protein Shake Powder

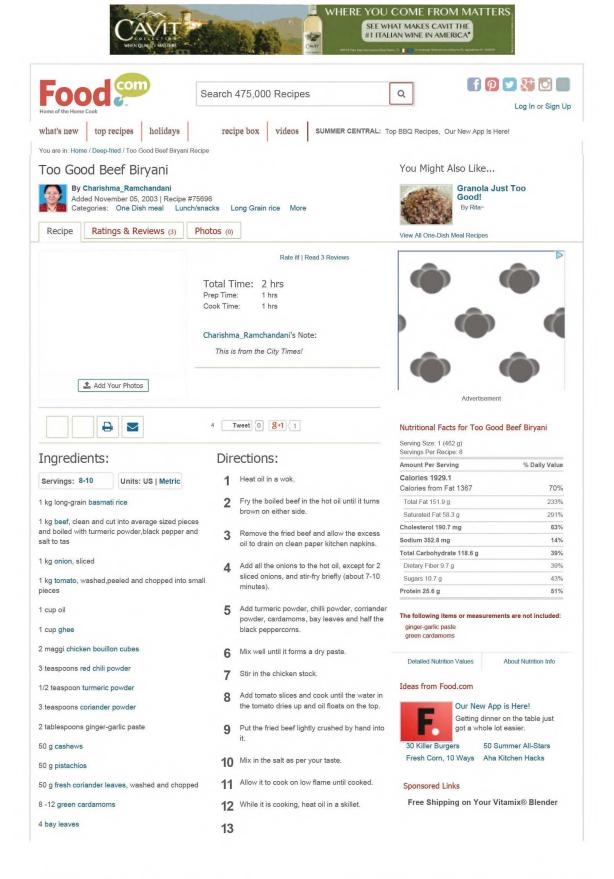
## **Nature's Best Whey Protein Drink Mix!**



(https://premiernaturalhealth.com/product-category/whey-protein-powders/)

For less than \$2 a serving WHEY TOO GOOD will;

improve your focus and concentration give you more sustained energy



Mark: 2good Serial No. 79/119,647

# EXHIBIT B TESS DATABASE RECORDS

## TOO GOOD TO BE FOOD

Word Mark TOO GOOD TO BE FOOD

Goods and IC 041. US 100 101 107. G & S: ONLINE JOURNAL, NAMELY, A BLOG FEATURING Services INFORMATION IN THE FIELD OF NUTRITION. FIRST USE: 20100400. FIRST USE IN

COMMERCE: 20100400

Standard Characters Claimed

**Mark Drawing** 

Code (4) STANDARD CHARACTER MARK

Serial Number 85299762 Filing Date April 20, 2011

Current Basis 1A
Original Filing

Basis

1A

Published for Opposition

September 6, 2011

Registration Number

4059900

Registration Date November 22, 2011

Owner (REGISTRANT) Keri Glassman LLC LIMITED LIABILITY COMPANY NEW YORK 353

Lexington Avenue New York NEW YORK 10016

Attorney of Record Laura B. Siegal
Type of Mark SERVICE MARK
Register PRINCIPAL

Live/Dead LIVE

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# 2GOOD2B . . . GLUTEN FREE

Word Mark 2GOOD2B . . . GLUTEN FREE

Goods and Services IC 030. US 046. G & S: Gluten-free bakery goods and gluten-free bakery desserts. FIRST USE: 20090607. FIRST USE IN COMMERCE: 20090607

IC 043. US 100 101. G & S: Restaurant, cafe and catering services, all providing glutenfree foods. FIRST USE: 20110618. FIRST USE IN COMMERCE: 20110618

Serial No. 79/119,647

**Standard Characters** 

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85337776 Filing Date June 3, 2011

Current Basis 1A Original Filing Basis 1A;1B

Published for Opposition

August 28, 2012

Registration Number

4335462

Registration Date

May 14, 2013

Owner

(REGISTRANT) 2GOOD2B, LLC LIMITED LIABILITY COMPANY CALIFORNIA 204

North El Camino Real Suite H Encinitas CALIFORNIA 92024

Attorney of Record 3

Jeffrey S. Eddington

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NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GLUTEN FREE" APART

FROM THE MARK AS SHOWN

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live/Dead Indicator LIVE

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# 2GOOD2B

Word Mark 2GOOD2B

Goods and Services IC 030. US 046. G & S: Bakery goods and bakery desserts. FIRST USE: 20090607.

FIRST USE IN COMMERCE: 20090607

IC 043. US 100 101. G & S: Restaurant, cafe and catering services. FIRST USE:

20110618. FIRST USE IN COMMERCE: 20110618

**Standard Characters** 

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85337757 Filing Date June 3, 2011

Current Basis 1A
Original Filing Basis 1A;1B

Published for Opposition

August 21, 2012

Serial No. 79/119,647

**Registration Number** 4313703 **Registration Date** April 2, 2013

Owner (REGISTRANT) 2GOOD2B, LLC LIMITED LIABILITY COMPANY CALIFORNIA Suite

H 204 North El Camino Real Encinitas CALIFORNIA 92024

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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## TOO GOOD TO BE LEGAL

Word Mark TOO GOOD TO BE LEGAL

Goods and Services (CANCELLED) IC 029. US 046. G & S: Foie gras. FIRST USE: 20050701. FIRST USE

IN COMMERCE: 20050701

Standard Characters

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78686764 Filing Date August 5, 2005

Current Basis 1A
Original Filing Basis 1A

Published for

Opposition May 23, 2006

Registration Number 3129327

Registration Date August 15, 2006

Owner (REGISTRANT) D'Artagnan Trademarks LLC LIMITED LIABILITY COMPANY NEW

JERSEY 280 Wilson Avenue Newark NEW JERSEY 07105

Attorney of Record Robert B. Rosen
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator DEAD

Cancellation Date March 22, 2013

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Serial No. 79/119,647



Word Mark ITZ 2 GOOD. COM

Goods and (CANCELLED) IC 030. US 046. G & S: Hot Sauce, Ketchup, Chutney, Mustard, Spices, Services Spice Rubs, Relishes, BBQ sauce, and Seasonings. FIRST USE: 20050200. FIRST USE

IN COMMERCE: 20050200

**Mark Drawing** 

Code

 $\hbox{(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS}\\$ 

**Design Search** 26.01.04 - Circles with two breaks or divided in the middle

Code 26.01.12 - Circles with bars, bands and lines

26.11.02 - Plain single line rectangles; Rectangles (single line)

26.11.20 - Rectangles inside one another

26.11.21 - Rectangles that are completely or partially shaded

Serial Number 78677771 Filing Date July 25, 2005

Current Basis 1A
Original Filing
Basis 1A

Published for

April 18, 2006

Opposition Registration

3114271

Number S114271
Registration Date July 11, 2006

Owner (REGISTRANT) Manumit, Inc. CORPORATION CALIFORNIA PO Box 6176 Beverly Hills

CALIFORNIA 90212

Type of Mark
Register
PRINCIPAL
Live/Dead
Indicator

TRADEMARK
PRINCIPAL
DEAD

Cancellation

Date February 15, 2013

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Word Mark 2 GOOD

Goods and Services (ABANDONED) IC 030. US 046. G & S: Food products, namely breakfast cereals. FIRST

USE: 20030401. FIRST USE IN COMMERCE: 20030401

Mark Drawing Code (1) TYPED DRAWING

Serial No. 79/119,647

Serial Number 78316694

**Filing Date** October 21, 2003

**Current Basis Original Filing** 1A

**Published for** 

July 27, 2004 Opposition

Owner (APPLICANT) Barbara's Bakery, Inc. CORPORATION CALIFORNIA 3900 Cypress Drive

Petaluma CALIFORNIA 94954

Assignment ASSIGNMENT RECORDED Recorded

Attorney of Record R. Gwen Peterson Type of Mark **TRADEMARK** Register **PRINCIPAL** Live/Dead Indicator DEAD

Abandonment Date October 12, 2004

## Two Too Good!

Word Mark TWO TOO GOOD!

Goods and IC 035. US 100 101 102. G & S: Retail store services featuring popcorn and on-line retail Services store services featuring popcorn. FIRST USE: 20031019. FIRST USE IN COMMERCE:

20031019

Standard Characters Claimed

**Mark Drawing** 

(4) STANDARD CHARACTER MARK Code

Classification Code

Search Facility NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters, punctuation and

mathematical signs, zodiac signs, prescription marks

NUM-2 The number 2 or the word Two

Serial Number 77611484

Filing Date November 10, 2008

Serial No. 79/119,647

Current Basis 1A Original Filing Basis 1A

Published for Opposition

June 2, 2009

Registration Number

3668767

Registration Date

August 18, 2009

Owner

(REGISTRANT) Just Pop In CORPORATION INDIANA 6302 N. Guilford Avenue Indianapolis

**ÎNDIANA 46220** 

Attorney of Record

Constance R. Lindman

Type of Mark SERVICE MARK
Register PRINCIPAL

Live/Dead Indicator

LIVE

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## TWO BITES TOO GOOD TO SHARE

Word Mark TWO BITES TOO GOOD TO SHARE

Goods and (ABANDONED) IC 035. US 100 101 102. G & S: Retail bakery shops; take-out bakery services; both featuring petite individual portions. FIRST USE: 20080131. FIRST USE IN

COMMERCE: 20080416

Standard

**Characters Claimed** 

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77618250

Filing Date November 20, 2008

Current Basis 1A
Original Filing
Basis 1A

Published for

Opposition August 4, 2009

Owner (APPLICANT) Morsels, L.L.C. LIMITED LIABILITY COMPANY MICHIGAN 323

Washington Street Traverse City MICHIGAN 49684

Attorney of Record Douglas S. Bishop

Serial No. 79/119,647

Type of Mark SERVICE MARK Register **PRINCIPAL** Live/Dead Indicator DEAD

Abandonment Date January 25, 2010



**Word Mark** 

TOOGOOD ESTATE

07.07.02 - Skylights; Windows

Goods and Services

IC 025. US 022 039. G & S: Apparel for men, women and children, namely, belts, blazers, hats, jackets, pants, shirts, shoes, shorts, sweaters, sweatshirts, tank tops and ties. FIRST

USE: 20031129. FIRST USE IN COMMERCE: 20031205

IC 033. US 047 049. G & S: Wine. FIRST USE: 20031003. FIRST USE IN COMMERCE:

20031120

Mark Drawing

Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search

Code

26.11.13 - Rectangles (exactly two rectangles); Two rectangles 26.11.21 - Rectangles that are completely or partially shaded

26.11.25 - Rectangles with one or more curved sides

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

**Serial Number** 76547926

September 29, 2003 **Filing Date** 

**Current Basis** 1A

**Original Filing** 

1B **Basis** 

**Published for** Opposition

November 9, 2004

Registration Number

2981535

Registration

Date

August 2, 2005

Owner

(REGISTRANT) Toogood, Paul DBA Toogood Estate Winery INDIVIDUAL UNITED STATES 1368 Colusa Highway Yuba City CALIFORNIA 95993

(LAST LISTED OWNER) TOOGOOD ESTATE WINERY, INC. CORPORATION CALIFORNIA 7280 FAIR PLAY ROAD FAIR PLAY CALIFORNIA 95684

**Assignment** ASSIGNMENT RECORDED

Serial No. 79/119,647

Recorded

Attorney of Record

ROBERT CHARLES HILL

**Disclaimer** 

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE ESTATE APART FROM THE

MARK AS SHOWN

Type of Mark

**TRADEMARK PRINCIPAL** 

Register **Affidavit Text** 

SECT 15. SECT 8 (6-YR).

Live/Dead Indicator

LIVE

TOO GOOD TO SHARE

Word Mark

Goods and Services (CANCELLED) IC 030. US 046. G & S: Candy. FIRST USE: 20031217. FIRST USE IN

COMMERCE: 20031217

Mark Drawing Code (1) TYPED DRAWING

Serial Number

76533006

Filing Date

July 17, 2003

**Current Basis** 

Original Filing Basis 1B

**Published for** 

April 13, 2004

Opposition

Registration Number 2900511

**Registration Date** 

November 2, 2004

Owner

(REGISTRANT) Shaymees Corporation CORPORATION CALIFORNIA 1105 Tiffany

Lane Pleasanton CALIFORNIA 94566

Type of Mark

**TRADEMARK** 

Register

**PRINCIPAL** 

Live/Dead Indicator DEAD

**Cancellation Date** 

June 3, 2011

**Word Mark** 

PERSONAL PIZZAS TOO GOOD TO SHARE

Goods and

(ABANDONED) IC 030. US 046. G & S: Food, namely pizza. FIRST USE: 20030421.

Services

FIRST USE IN COMMERCE: 20030421

Mark Drawing

Code

(1) TYPED DRAWING

Serial Number Filing Date

76513107 May 9, 2003

**Current Basis** 

1A

Serial No. 79/119,647

Original Filing Basis

1A

Owner

(APPLICANT) Pizzeria Piccola, LLC LIMITED LIABILITY COMPANY WISCONSIN 6005

W. Martin Dr. Wauwatosa WISCONSIN 53213

Attorney of Record

Robert A. Moakley

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PERSONAL" or "PIZZA"

APART FROM THE MARK AS SHOWN

Type of Mark Register Live/Dead TRADEMARK PRINCIPAL

Indicator

DEAD

Abandonment

Date

April 21, 2004

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....

Word Mark GUYLIAN TOO GOOD TO GIVE AWAY

Goods and Services (CANCELLED) IC 030. US 046. G & S: chocolates and pralines

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75788663 Filing Date August 31, 1999

Current Basis 44E
Original Filing Basis 1B

Published for

Opposition January 30, 2001

Registration Number 2445800 Registration Date April 24, 2001

Owner (REGISTRANT) Chocolaterie Guylian N.V. CORPORATION BELGIUM Europark-Oost

1 9100 Sint-Niklaas BELGIUM

Attorney of Record Andrew N. Fredbeck
Priority Date July 12, 1999

Prior Registrations 1462127;2086318;AND OTHERS

Type of Mark TRADEMARK Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator DEAD

Cancellation Date November 25, 2011

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Serial No. 79/119,647

**Word Mark** TOO GOOD GOURMET

**Goods and Services** (CANCELLED) IC 030. US 046. G & S: COOKIES. FIRST USE: 19981001. FIRST USE

IN COMMERCE: 19981001

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75476574 Filing Date April 29, 1998

**Current Basis** 1A Original Filing Basis 1B

Published for

August 24, 1999 Opposition

Registration Number 2334413

Registration Date March 28, 2000

Owner (REGISTRANT) Finley, Jennifer INDIVIDUAL UNITED STATES 869 Rosemount

Oakland CALIFORNIA 94610

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GOURMET" APART Disclaimer

FROM THE MARK AS SHOWN

Type of Mark **TRADEMARK** Register **PRINCIPAL Affidavit Text** SECT 8 (6-YR).

Live/Dead Indicator DEAD

**Cancellation Date** October 29, 2010





**Word Mark** BEWARE CONTENTS MIGHT BE TOO GOOD FOR YOU! SNAKE RIVER BEVERAGE

COMPANY

Goods and (CANCELLED) IC 032. US 045 046 048. G & S: non-carbonated soft drinks. FIRST USE:

19940200. FIRST USE IN COMMERCE: 19940800 Services

Serial No. 79/119,647

**Mark Drawing** 

Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search** 

03.21.02 - Snakes

Code

06.03.08 - Rapids; Rivers; Streams

26.09.03 - Incomplete squares; Squares, incomplete

26.09.07 - Squares with a decorative border, including scalloped, ruffled and zig-zag

26.09.21 - Squares that are completely or partially shaded 26.11.13 - Rectangles (exactly two rectangles); Two rectangles

26.11.25 - Rectangles with one or more curved sides

26.11.28 - Miscellaneous designs with overall rectangular shape; Rectangular shapes

(miscellaneous overall shape)

Serial Number

75028131

**Filing Date** 

December 1, 1995

**Current Basis Original Filing**  1A 1A

**Basis** 

Published for

Opposition

November 5, 1996

Registration

Number

2033638

Registration Date

January 28, 1997

Owner

(REGISTRANT) Lewis & Clark Snake River Beverage Company CORPORATION

DELAWARE 208 Spruce Avenue North P.O. Box 678 Ketchum IDAHO 83340

Attorney of Record BRUCE A TASSAN

Prior Registrations 1964714;1970553

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERAGE COMPANY"

APART FROM THE MARK AS SHOWN

Type of Mark

**TRADEMARK** 

Register

**PRINCIPAL** 

Live/Dead

Indicator

DEAD

Cancellation Date November 1, 2003

CONTENTS MIGHT BE YOU GOOD FOR YOU:

**Word Mark** 

BEWARE CONTENTS MIGHT BE TOO GOOD FOR YOU!

Goods and

(CANCELLED) IC 032. US 045 046 048. G & S: non-carbonated soft drinks. FIRST USE:

Serial No. 79/119,647

Services 19940200. FIRST USE IN COMMERCE: 19940800

**Mark Drawing** 

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM Code

Serial Number

74561683

Filing Date **Current Basis**  August 16, 1994 1A

**Original Filing** 

**Basis** 

1B

**Published for** Opposition

June 20, 1995

Registration Number

1970553

Registration Date

April 23, 1996

Owner

(REGISTRANT) Lewis & Clark Snake River Beverage Company CORPORATION

DELAWARE 29 Elkhorn Village - 2nd Floor Sun Valley IDAHO 83354

Attorney of Record Bruce A. Tassan

Type of Mark

TRADEMARK **PRINCIPAL** 

Register

Live/Dead Indicator

DEAD

**Cancellation Date** 

January 25, 2003

'TOO GOOD TO BE TRUE!'

**Word Mark** 

'TOO GOOD TO BE TRUE!'

Goods and Services

(CANCELLED) IC 029. US 046. G & S: dried soup mixes; dried chili mix; fruit spreads; and peanut butter. FIRST USE: 19920303. FIRST USE IN COMMERCE: 19920303

(CANCELLED) IC 030. US 046. G & S: dried chili mix. FIRST USE: 19930315. FIRST USE IN COMMERCE: 19930315

(CANCELLED) IC 032. US 045. G & S: fruit juices and soft drinks. FIRST USE: 19930310. FIRST USE IN COMMERCE: 19930310

**Mark Drawing** 

Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number

74414647

**Filing Date** 

July 20, 1993

Serial No. 79/119,647

**Current Basis** 1A **Original Filing** 1A Basis

**Published for** Opposition

February 8, 1994

Registration Number

1837992

Registration Date May 31, 1994

Owner

(REGISTRANT) Loblaws Inc. CORPORATION CANADA 22 St. Clair Avenue East

Toronto, Ontario M4T 2S7 CANADA

Attorney of Record

Carol L. B. Matthews

Type of Mark Register

**TRADEMARK PRINCIPAL** 

Live/Dead

DEAD

Indicator Cancellation Date June 9, 2001

**Word Mark** TOO GOOD TO KEEP UNDER WRAPS

Goods and Services

(EXPIRED) IC 030. US 046. G & S: CANDY OF ALL KINDS. FIRST USE: 19650505.

FIRST USE IN COMMERCE: 19650505

**Mark Drawing** 

Code

(1) TYPED DRAWING

Serial Number 72276919 Filing Date July 27, 1967

**Current Basis** 1A **Original Filing** 

Basis

1A

Registration Number

0846850

Registration Date March 26, 1968

Owner

(REGISTRANT) BUNTE CANDIES, INC. CORPORATION OKLAHOMA 9 PARK AVE.

OKLAHOMA CITY OKLAHOMA 73102

Type of Mark

TRADEMARK

Register

SUPPLEMENTAL

Live/Dead Indicator

DEAD